

REMARKS/ARGUMENTS

Claims 1-11 stand rejected. In the present Amendment, the specification, abstract and claims 1, 4 and 6-11 have been amended. Claims 2, 3 and 5 have been canceled without prejudice or disclaimer. New claims 12-27 have been added. It is respectfully submitted that no new matter has been introduced into the present application by any of the amendments or by the addition of the new claims. Reconsideration is respectfully requested in view of the following remarks.

The citation of the Crawford patent on the Form PTO-892 is in error. Specifically, the Crawford patent is cited as US-487,433, when it should be US-987,433. Correction of this error is respectfully requested so that the correct patent number will appear among the references cited section of any patent that issues from the present application.

In the Information Disclosure Statement dated February 18, 2004 (filed on February 23, 2004), applicants cited two commonly owned applications for consideration by the Examiner, that is, 10/282,539 and 09/595,035 (document "CO" on said Information Disclosure Statement). The Examiner has already considered these commonly owned applications (see initialed copy of PTO/SB/08 form attached to Office Action dated November 18, 2004). Applicants wish to bring to the Examiner's attention that the 09/595,035 application has been abandoned, the 10/282,539 application has issued to U.S. Patent No. 6,849,266 and a divisional application of the 10/282,539 application was filed on July 20, 2004, and is now pending as 10/894,545 in art unit 1616 with Examiner Neil Levy.

The comments and objections regarding the specification have been rendered moot by the amendments to the same.

The objections to claim 1 have been rendered moot by the amendments to the same.

The rejection of claims 1-11 under 35 U.S.C. 112, second paragraph, are respectfully traversed. Specifically, it is respectfully submitted that the claim language is not indefinite (i.e., it was intended that the chemical be on the flexible web). However, it is respectfully submitted that this rejection has been rendered moot by the amendments to the claims. Specifically, applicants have broadened the scope of claims 1, 4 and 6-11 by removing the requirement that the flexible web have a chemical thereon. It is believed that this limitation was unnecessary to distinguish the present invention from the prior art. New claims 16-27 now expressly recite that the apparatus further comprises a chemical that is disposed on the flexible web.

The rejection of claims 1-5 and 10 under 35 U.S.C. 102(b) as being anticipated by Talley (US 5,027,747) is respectfully traversed for the reasons set forth below.

The present claims are directed to an apparatus for applying a chemical to rodents, such as mice. There is no disclosure or suggestion whatsoever in the Talley patent of an apparatus that could be used to effectively apply a chemical to a rodent such as a mouse. The device disclosed in Talley is designed to treat household pets, such as dogs and cats. It is many orders of magnitude larger than the devices described, exemplified and claimed in the present application. Accordingly, it is respectfully submitted that the Talley patent does not anticipate the invention of the present claims because it does not teach: (1) an apparatus for applying a chemical to rodents; and/or (2) an applicator arranged to contact rodents entering the enclosure.

In anticipation that the Examiner will withdraw the present rejection of claims 1-5 and 10 under 35 U.S.C. 102(b) and instead reject these claims under 35 U.S.C. 103(a), applicants provide the following arguments against such a rejection and against the current rejection of claims 6 and 7 under 35 U.S.C. 103(a) over the Talley patent.

The Talley patent teaches an apparatus for applying liquid, including liquids that contain a chemical substance, to an animal. The applicator comprises a reservoir which contains the liquid, an anchor for mounting the reservoir above an animal pathway and a plurality of flexible

wicks depending from the reservoir. The flexible wicks have proximal ends communicating with the interior of the reservoir so that the liquid in the reservoir communicates with and moistens the wicks, and distal ends adapted for extending into the animal pathway. An animal passing through the pathway contacts the moistened wicks and the wicks apply the liquid to the animal. The applicator of the Talley patent is a large sturdy device that is intended to treat household pets, such as dogs and cats (see column 1, lines 9-25, and column 2, lines 45-50). To withstand the force applied to the applicator when an animal of this size passes through the applicator, the applicator must be firmly mounted to a strong body, such as a wall or post. In addition, because an animal of this size will pick up a relatively large amount of liquid as the animal passes through the applicator, the apparatus must have a reservoir of liquid to keep the liquid on the applicator. There is no teaching whatsoever in the Talley patent of an apparatus that would be suitable for treating very small animals, such as rodents. Further, there is no suggestion in the Talley patent that the apparatus described therein would be useful or desirable for treating rodents. Accordingly, an artisan of ordinary skill would find no motivation in the teachings of the Talley patent to modify the apparatus described therein so as to make it useful for treating rodents.

Moreover, assuming *arguendo* that an artisan was somehow motivated to modify the apparatus of the Talley patent to treat rodents, there is no teaching in the Talley patent of how the apparatus could be miniaturized so that it could be used to effectively treat rodents.

In view of the above, it is respectfully submitted that the invention of the present claims is not anticipated by or obvious over the Talley patent.

The rejection of claims 1, 9 and 10 under 35 U.S.C. 102(b) as being anticipated by the Crawford patent (US-987,433) is respectfully traversed for the reasons set forth below.

The device disclosed in the Crawford patent is designed to treat poultry. Similar to the device disclosed in the Talley patent, the Crawford device is relatively large compared to the

apparatus of the present claims. It would not be suitable to treat rodents (even a large rodent would be able to walk under the applicator of the Crawford device without contacting the applicator). Accordingly, for the same basic reasons as discussed above for the Talley patent, it is respectfully submitted that the invention of the present claims is not anticipated by (or obvious over) the Crawford patent.

Applicants appreciate the Examiner's recognition that claim 8 contains allowable subject matter. However, in view of the above remarks, it is respectfully submitted that all of the claims of the present application are in allowable condition.

Applicants wish to point out that claims that were very similar to present claims 1, 4, 6-11 and 15, have already been allowed three separate times by the USPTO over the Talley patent and other similar patents directed to devices for treating larger animals. See, for example, the following Notices of Allowance:

Application Serial No.	Date of Notice of Allowance	Claims Allowed
09/595,034 (grandparent of the present application)	July 30, 2002	Claims 1, 4, 6-11 and 15 allowed by Examiner John Zerr, Art Unit 3644
10/282,853 (parent application of the present application)	March 21, 2003	Claims 1, 4, 6-11 and 12 (claim 12 was the same as claim 15 of the present application) allowed by Examiner John Zerr, Art Unit 3644
10/282,853 (parent application of the present application)	July 24, 2003	Claims 1, 4, 6-11 and 12 (claim 12 was the same as claim 15 of the present application) allowed by Examiner John Zerr, Art Unit 3644

The allowed claims in these related applications were very similar to present claims 1, 4, 6-11 and 15, with the exception that in present claim 1, applicants have removed the limitation that the flexible web has a chemical thereon. It is not believed that the removal of this limitation will have any effect on the allowability of the present claims over the cited prior art.


None of the allowed claims in the related applications ever issued to a U.S. patent because applicants abandoned each of those applications in order to continue the prosecution of the claims (i.e., 09/595,034 was abandoned after allowance so that additional prior art could be cited and 10/282,853 was abandoned after allowance to correct the inventorship by adding an inventor).

The prior art made of record and not relied upon does not disclose or suggest the invention of the present claims.

Reconsideration of the present application and a favorable action concerning claims 1, 4 and 6-27 is respectfully requested.

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Respectfully submitted,

By 

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